

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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JOSEPH WASHINGTON,

Plaintiff,

v.

TIMEKEEPER NDOC, et al.,

Defendants.

Case No. 2:24-cv-01000-GMN-DJA

ORDER

Plaintiff Joseph Washington brings this civil-rights action under 42 U.S.C. § 1983 to redress constitutional violations that he claims he suffered while incarcerated at Ely State Prison and High Desert State Prison. (ECF No. 18.) On May 23, 2025, this Court ordered Washington to file a second amended within 30 days. (ECF No. 19.) The Court warned Washington that the action could be dismissed if he failed to file a second amended complaint by that deadline. (*Id.* at 6.) That deadline expired, and Washington did not file a second amended complaint, move for an extension, or otherwise respond.

I. DISCUSSION

District courts have the inherent power to control their dockets and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action based on a party’s failure to obey a court order or comply with local rules. See *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court order). In determining whether to dismiss an action on one of these grounds, the Court must consider: (1) the public’s

1 interest in expeditious resolution of litigation; (2) the Court's need to manage its docket;
2 (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of
3 cases on their merits; and (5) the availability of less drastic alternatives. *See In re*
4 *Phenylpropanolamine Prod. Liab. Litig.*, 460 F.3d 1217, 1226 (9th Cir. 2006) (quoting
5 *Malone v. U.S. Postal Serv.*, 833 F.2d 128, 130 (9th Cir. 1987)).

6 The first two factors, the public's interest in expeditiously resolving this litigation
7 and the Court's interest in managing its docket, weigh in favor of dismissal of
8 Washington's claims. The third factor, risk of prejudice to defendants, also weighs in
9 favor of dismissal because a presumption of injury arises from the occurrence of
10 unreasonable delay in filing a pleading ordered by the court or prosecuting an action. *See*
11 *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor—the public
12 policy favoring disposition of cases on their merits—is greatly outweighed by the factors
13 favoring dismissal.

14 The fifth factor requires the Court to consider whether less drastic alternatives can
15 be used to correct the party's failure that brought about the Court's need to consider
16 dismissal. *See Yourish v. Cal. Amplifier*, 191 F.3d 983, 992 (9th Cir. 1999) (explaining
17 that considering less drastic alternatives *before* the party has disobeyed a court order
18 does not satisfy this factor); *accord Pagtalunan v. Galaza*, 291 F.3d 639, 643 & n.4 (9th
19 Cir. 2002) (explaining that “the persuasive force of” earlier Ninth Circuit cases that
20 “implicitly accepted pursuit of less drastic alternatives prior to disobedience of the court's
21 order as satisfying this element[,]” *i.e.*, like the “initial granting of leave to amend coupled
22 with the warning of dismissal for failure to comply[,]” have been “eroded” by *Yourish*).
23 Courts “need not exhaust every sanction short of dismissal before finally dismissing a
24 case, but must explore possible and meaningful alternatives.” *Henderson v. Duncan*, 779
25 F.2d 1421, 1424 (9th Cir. 1986). Because this action cannot realistically proceed until
26 and unless Washington files a second amended complaint, the only alternative is to enter
27 a second order setting another deadline. But the reality of repeating an ignored order is
28 that it often only delays the inevitable and squanders the Court's finite resources. The

1 circumstances here do not indicate that this case will be an exception: there is no hint
2 that Washington needs additional time or evidence that he did not receive the Court's
3 screening order. Setting another deadline is not a meaningful alternative given these
4 circumstances. So the fifth factor favors dismissal.

5 **II. CONCLUSION**

6 Having thoroughly considered these dismissal factors, the Court finds that they
7 weigh in favor of dismissal. It is therefore Ordered that this action is dismissed without
8 prejudice based on Washington's failure to file a second amended complaint in
9 compliance with this Court's May 23, 2025, Order. The Clerk of Court is kindly requested
10 to enter judgment accordingly and close this case. No other documents may be filed in
11 this now-closed case. If Washington wishes to pursue his claims, he must file a complaint
12 in a new case.

13 It is further Ordered that Washington's application to proceed *in forma pauperis*
14 (ECF No. 3) is denied as moot.

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16 DATED THIS 22 day of July 2025.

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20 Gloria M. Navarro, Judge
21 United States District Court
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